

19. (Amended) An implant for the reconstruction of soft tissue, said implant comprising:

a plurality of structural elements lying on top of one another to provide a thickness to said implant;

said structural elements being formed of pliable [foil] sheet of a physiologically compatible plastic, said [foil] sheet having a thickness of 10 to 200 μm ; and

said structural elements having a surface that is adapted to be wetted by a fluid such that, when said surfaces are wetted, sliding movement is lubricated between said structural elements as the implant is flexed.

22. (Amended) The implant according to claim 20, [and] wherein said structural elements each being a layer of said [foil] sheet stacked with the other structural elements to provide a thickness to the implant.

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Claims 1,2 and 5-22 were rejected under 35 USC § 112 second paragraph. The Examiner contends that the meaning of the term "foil" is not proper. The Examiner is correct; what is meant thereby is "thin sheet." The claims have been amended accordingly. It is respectfully submitted that no new matter has been added, especially since the Examiner's understanding of the term as used is in accordance with Applicant's intentions and was readily apparent from the specification. An

appropriate change has also been made to the specification.

Claims 1, 2 and 5 were rejected under 35 USC § 103(a) as allegedly obvious over Ledergerber and Shane. Applicants respectfully traverse. The Examiner is referred to International Preliminary Examination Report (IPER), an English translation of which is attached. In the report the Examiner discusses EP-A-0 322 194 ("Ledergerber"). The discussion of Ledergerber provided therein clearly set forth the primary differences of Ledergerber's disclosure compared to that of the present application. Note that the IPER indicates that the claimed invention was novel and has inventive step over Ledergerber. The comments therein are incorporated here by reference.

Shane discloses a prosthesis essentially consisting of a fluid filled lumen which contributes most of the bulk of the prosthesis (column 5, lines 15-17). In the fluid filled lumen, there is a plurality of thin-walled layers of flexible material. The bulk of the prosthesis, however, consists of a fluid, as illustrated in Figures 1, 4, 5, 6, 7 and 9. A fluid filling is not used in accordance with the implant of the present application. The passage bridging pages 3 and 4 of Applicants specification clearly state that the volume of the implant of the present invention does not need to be provided with an outer coating layer, and if such coating layer is provided, it is determined by the thin elements having a thickness of 10-200 μm , not by a fluid. The lubricant only fills the capillary gaps between the individual layers and makes only slight contribution to the filling volume.

Thus, the implant according to the claimed invention is distinguished in that it consists of a multitude of thin, foldable structural elements having a thickness of 10-200 μm , which is not disclosed by Shane. Also, there is no required amount of fluid, resulting in a structure fundamentally different from that described by Shane. Shane principally refers to a sac-en-sac

assembly, which is an entirely different structure.

The Examiner asserts that the layer thickness according to Shane would have to lie in the range as defined by the present invention. It is respectfully submitted that the maximum thickness of 0.2 mm appears to be impossible according to Shane because the layers are not allowed to fold, as this might cause the entire structure collapsing.

The remaining claims were rejected under Ledergerber and Shane in view of either Wiese or Scarborough. It is respectfully submitted that these rejections must be withdrawn, since neither of these references can overcome the deficiencies of Shane or Ledergerber.

In view of the foregoing, it is respectfully submitted that all rejections have been overcome and that this application is now in condition for formal allowance. Early issuance of a Notice of Allowance is respectfully requested.

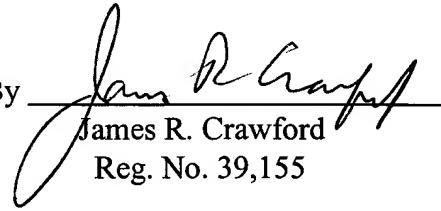
Should any questions arise, the Examiner is invited to telephone attorney for applicant at the telephone number provided below.

If any fees are due to enter this amendment, the examiner is authorized to charge Fulbright & Jaworski L.L.P. Deposit Account No. 500624.

The Examiner's attention is directed to the new firm name and correspondence address indicated below, and to change the Patent Office records accordingly.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By 

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enclosure- English Translation of IPER

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